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Nicaragua

Country Reports on Human Rights Practices - [2003](#)

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Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. In 2001, voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party (PLC) as President in a generally free and fair election. The Supreme Electoral Council (CSE) is ostensibly an independent fourth branch of government; however, it was subject to political influence. The Constitution provides for an independent judiciary; however, the judiciary was susceptible to political influence and corruption.

The President is the supreme chief of the national defense and security forces. A civilian has led the Ministry of Defense since 1997; however, the Minister of Defense has limited authority over the military under the Constitution. The Ministry of Government oversees the National Police, which is charged formally with internal security; however, the police share this responsibility with the army in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The market-based economy is predominantly agricultural; coffee, seafood, sugar, cattle, apparel assembly, and tourism are also important. The country's population is approximately 5.4 million. A worldwide drop in coffee prices, the lack of an adequate legal framework for investors, a fragile banking system, the high level of external and domestic debt, and unresolved property disputes stemming from massive confiscations by the Sandinista government in the 1980s limited economic growth. Government officials reported 2.3 percent Gross Domestic Product growth in real terms during the year. While official figures were unavailable, a November Gallup poll found 41 percent unemployment. The economy remains heavily dependent on foreign aid and remittances from abroad.

The Government generally respected the human rights of its citizens; however, serious problems remained in some areas. At year's end, there were ongoing investigations of members of the security forces accused of having committed unlawful killings. Police continued to beat and otherwise abuse detainees. Some detainees credibly alleged that they were tortured. Holding cell conditions remained harsh. Security forces arbitrarily arrested and detained citizens; however, the number of reports of arbitrary arrests and detentions decreased during the year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. The new Criminal Procedures Code took effect at the end of 2002. The judiciary is subject to political influence and corruption. The weakness of the judiciary continued to hamper prosecution of human rights abusers in many cases. The human rights ombudsman, though also politicized, made publicized recommendations during the year that openly challenged the actions of the security forces. Violence against women, including domestic abuse and rape, remained a concern. Salary discrimination against women in the labor force is endemic. Violence against children and child prostitution continued. Discrimination against indigenous people also occurred. Child labor continued to be a problem. The violation of worker rights in free trade zones continued. There were several documented reports of trafficking in women and girls for the purpose of sexual exploitation.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by government officials; however, the police received 20 allegations of unlawful killings by police; each of these was referred by the Inspector General of the police to the courts. All of the cases were pending before the courts at year's end.

The Inspector General's Office of the National Police received 20 reports of police killing of alleged criminals and

145 reports of instances in which police seriously wounded criminal suspects while attempting to arrest them (see Section 1.d.).

On June 9, Saturnino Varela Escalante died hours after his arrest for disrupting public order by a police patrol led by officer Javier Somarriba in Somotillo, Chinandega. Varela allegedly resisted arrest and was kicked by Somarriba. Forensic specialists reported that Varela died of heart injuries apparently caused by severe beating. Chinandega Police Chief Guillermo Vallecillo Ruiz condemned the incident as inconsistent with police standards and discharged dishonorably Somarriba, who was already under investigation for theft and robbery. Somarriba did not return to the police station after the incident and was believed to have fled to Honduras. The police sought his capture and extradition from Honduras, but he remained at large at year's end.

On August 3, police officer Dimagio Valverde shot 18-year-old Marvin Jose Miranda, after Miranda allegedly attempted to assault a taxi driver in the "El Rodeo" neighborhood in Managua. The family of the victim said that Valverde had shot Miranda in the neck even though Miranda had been trying to hide when the police arrived. Valverde's defense attorney said three of Miranda's neighbors who witnessed the confrontation confirmed that the shot had been accidentally fired in a struggle between his client and Miranda. A preliminary hearing found sufficient evidence to go to trial, which started October 3, but no information on the disposition of the case was available at year's end.

In April 2002, a court acquitted police Captain Arnulfo Rocha Mora of the charges of excessive force in the January 2002 killing of 31-year-old Santos Jose Polanco in Teustepe, Boaco. Rocha, who claimed that he shot Polanco in self-defense, was transferred and promoted to police chief in the nearby town of Santa Lucia.

b. Disappearance There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes the use of torture a punishable crime; however, police continued to beat and otherwise abuse detainees. There were numerous credible reports that police beat or physically mistreated detainees, often to obtain confessions. A leading human rights NGO, the Nicaraguan Center for Human Rights (CENIDH), received 293 complaints of torture or degrading treatment by the authorities during the first half of the year and verified 232 of these. The Inspector General's Office recorded 586 complaints of mistreatment by police and found 188 to have merit. The Inspector General punished 272 officers involved in these cases. Among the complaints were 145 instances in which police seriously wounded criminal suspects while attempting to arrest them. By year's end, the police had dishonorably discharged 11 officers. A total of 103 officers were referred to the courts for suspected criminal acts, including human rights infractions and corruption.

The Inspector General's Office reported that it received a total of 274 complaints of human rights violations by police officers during the year, including unlawful killings (see Section 1.a.) and complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 92 to have merit. The Inspector General's Office punished a total of 176 officers for violations of human rights. Of those punished, the police discharged 11 officers dishonorably, remanded 103 to the courts on both human rights and corruption charges, and gave the rest lesser punishments, including demotion, suspension, and loss of pay.

On May 15, Captain Francisco Orozco, chief of police in Rosita, Northern Autonomous Atlantic Region (RAAN), was accused of raping a 13-year-old girl at the police station. The girl's mother had brought her to the police to press rape charges against the girl's stepfather. Orozco allegedly told the mother to leave the room so he could interview the girl. A medical forensic exam revealed evidence of previous abuse as well as of a recent rape, which they forwarded for further forensic analysis. Orozco was immediately discharged pending the investigation. Human Rights Ombudsman Benjamin Perez called for serious punishment for this crime. Top national police officials vowed to prosecute Orozco should the evidence implicate him. In October, a jury acquitted Orozco of the charges.

On May 7, policeman Marcos Vasquez allegedly assaulted Humberto Torres Mendieta in front of his home in Ciudad Sandino, a Managua neighborhood. According to press reports, Vasquez arrested Torres without a judicial order for disrupting public order and disrespect of authority, then continued beating him at the police station along with other police officers. Vasquez was subsequently dismissed from the police force. At year's end, no information was available on criminal charges against Vasquez.

In June, policeman Lester Garcia was accused by his superior officer of raping a 25-year-old Ecuadorian woman who was detained at the Corn Island police station. The Ecuadorian national was waiting to be transferred to local immigration authorities after she entered the country illegally. The police official was suspended while the police Inspector General investigated. Lester was dismissed from the police for breaking non-fraternization regulations

when the alleged victim acknowledged the relationship was consensual.

On September 5, a 29-year-old woman pressed charges against policeman Andres Montes for attempted rape while she was sleeping outside city hall offices in Siuna, RAAN, on August 25. She claimed that public defender Gloria Garcia suggested that she drop the charges to avoid negative consequences against her 14-year-old son, who was detained by the police at the time on other charges. Garcia allegedly took the victim to the police station and made her sign a release exonerating Montes. Montes was charged with rape in a local court. The trial, scheduled for December 22, was delayed and remained pending at year's end.

On September 7, a police patrol in Granada struck with rubber bullets and allegedly beat 18-year-old Octavio de la Rocha. According to the police, the patrol was rounding up suspected gang members when some of the youth responded by pulling knives and throwing rocks. The patrol claimed it then fired rubber bullets in self-defense. According to some witnesses, de la Rocha fell on the ground attempting to flee the melee, where police shot him with rubber bullets and beat him. De la Rocha was taken to a local hospital where he remained in a coma. Although de la Rocha's family acknowledged he sniffed glue, they denied he was a gang member or criminal. No details of a police investigation or criminal charges against any of the police involved were available at year's end.

In May, a court convicted and sentenced to various prison terms eight police officers including Deputy Commissioner Fidel Dominguez Alvarez and Captain Maribel Ruiz Lovo, for a February 2002 raid during which a group of nearly 30 police officers beat 15 people as they attempted to evict 13 families who were allegedly squatting on disputed land on the island of Ometepe. However, the Appeals Court in Granada overturned their conviction on August 23. Both officers continued to work with the police, Dominguez as the head of the investigative unit in Rivas and Ruiz as police chief in Altagracia on Ometepe.

Police officer Bismark Laguna was acquitted May 15 for the 2001 shooting of gang members Juan Carlos Mendoza and Lenin Calderon Mendoza in San Isidro, Matagalpa.

A new Prison Systems Organic Law went into effect at the end of the year. The new law establishes general norms and rules for the National Penitentiary System and regulates its activity in the execution of punishments and preventative measures, such as control, re-education, penal security, and social reinsertion.

Prison conditions were difficult. According to government statistics, the prisons, with an official capacity of 5,132, had a total inmate population of 5,306 in December, down from 5,624 in December 2002. Detainees were held separately from convicted prisoners (see Section 1.e.). Prison guards received human rights training from the Human Rights Ombudsman (PPDDH), funded by international donors, and generally treated prisoners well.

The prison system remained underfunded, and medical supplies ranged from inadequate to nonexistent. The Ministry of Health started a program to provide medical care, although it was unclear if this had made an impact on prisoner's access to health care. For all 8 penitentiaries and 5,306 prisoners, prison authorities maintained a staff of only 24 medical specialists, including doctors, psychologists, and nurses. Six medical personnel were located in Tipitapa, the country's largest prison near Managua, and there were at least two in each of the other seven facilities. Prison authorities reported that 30 percent of prisoners slept on concrete beds or floors, in contrast to the 49 percent that did so in 2002. Several churches and nongovernmental organizations (NGOs) donated foodstuffs, beds, and medicine to help alleviate shortfalls.

Prison officials calculated that the daily expenditure per prisoner for food was about \$0.45 (6.8 cordobas). The quality of prison food remained poor, and malnutrition remained a problem in local jails and police holding cells. Many prisoners received additional food from visitors. Many police holding cells were dark, poorly ventilated, and unhygienic.

Conditions in jails and holding cells remained harsh. Police station holding cells were severely overcrowded. Suspects regularly were left in these cells throughout their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Bluefields jail, there were only 2 showers and 4 toilets for more than 105 prisoners. The authorities occasionally released detainees when they could no longer feed them.

Only Managua has a separate prison for women; outside Managua, women were housed in separate wings in prison facilities and were guarded by female custodians. As of December, females made up 5.7 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure prisoners' rights. As of December, 0.7 percent of the prison population was between the ages of 15 and 18, a sixth of what it was in 1999. All youths were housed in separate prison wings and were on different schedules than adults for mealtime and recreational activities.

In August 2002, Casa Alianza and the Human Rights Ombudsman's Office published a survey of 85 underaged

detainees throughout the penal system. According to the survey, the police did not inform over 21 percent of the respondents at the time of their arrest why they were being detained. The police allegedly mistreated 47 percent, and 48 percent said that they were detained 3 days or more before seeing a judge. Half said they were not aware of being assigned a defense attorney, and 24 percent said they were incarcerated with adults.

In September 2002, Casa Alianza and the Center for Justice and International Law presented a complaint to the Inter-American Human Rights Commission regarding the 1999 suicide of 16-year-old Wilmer Gonzalez Rojas at the adult jail in Tipitapa. The IACHR had not decided whether to accept the case by year's end, pending the receipt of information requested from the Government.

The Government permitted prison visits by independent human rights observers.

d. Arbitrary Arrest, Detention, Or Exile

Arbitrary arrest and detention by the police decreased under the new Criminal Procedures Code. The Police Functions Law requires police to obtain a warrant prior to detaining a suspect and to notify family members of the detainee's whereabouts within 24 hours. Compliance with this law has increased significantly since 1999, largely due to pressure from the Police Internal Affairs office and support for compliance from the Chief of Police. Under the new code, a prosecutor must accompany police making an arrest, and detainees have the right to an attorney as soon as they are arrested.

The National Police reduced the law enforcement role of voluntary police, private citizens used on a volunteer basis to help fill staffing gaps in several precincts. The National Police provide them with a uniform, and in some cases, with a gun, at the discretion of the police chief. Voluntary police do not receive a salary or professional training. The police can apply no administrative sanctions to the volunteers, other than to terminate their status. In 2000, then Chief of Police Franco Montealegre terminated the use of voluntary police in Managua; however, as of September 2002, there were 1,681 voluntary police outside of Managua, a 22 percent decrease from the 2,170 in 2001. Several voluntary police were implicated in human rights abuses during the year.

The Inspector General remands to the court system for review all cases in which police use deadly force; however, the courts often take considerable time to process these cases and most of the cases never reach a final resolution (see Section 1.e.). The police do not make a final decision on cases sent to the courts until the courts respond with a verdict. While the police await the decisions from the courts, the Inspector General's office normally applies administrative restrictions, such as suspension with pay or confinement to precinct. At year's end, the Inspector General had no information on how many cases were remanded to the courts or adjudicated during the year.

The Police Inspector General's Office investigated allegations of abuse by the regular police and sanctioned the offenders in many cases; however, a degree of impunity persisted. Inadequate budget support for the National Police hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, international assistance programs provided the police with extensive training during the year. Police trainees must receive human rights instruction to graduate from the police academy and become officers. In addition, police officers must be re-certified in human rights annually. Canadian police and the Inter-American Commission of Human Rights (IACHR) trained the instructors teaching the human rights courses. The army included human rights training in its core training curriculum (see Section 4).

Police may hold a suspect legally for 48 hours before they must bring the person before a judge to decide if charges should be brought. The judge then either must order the accused released or transferred to jail. Although cumbersome, this law was observed more closely than in the past, and few prisoners were held illegally beyond the 48-hour deadline (see Section 1.c.). The number of provisionally convicted prisoners awaiting trial dropped by 50 percent. In 2002, government statistics indicated that 10 percent of 5,163 prisoners had been in jail for 6 months or longer without a final verdict, up from 2 percent in 2001 and 4 percent in 2000. Although the number of prisoners in jail awaiting trial was not available, statistics from the Department of Prisons indicated that 13.7 percent of all prisoners being held were awaiting final verdicts, half as many as in 2002. Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the judiciary was highly susceptible to corruption and political influence. The judiciary was hampered by arcane legal codes and corruption. Judges' political sympathies, acceptance of bribes, or influence from political leaders often influenced judicial actions and findings. The judicial system comprises both civil and military courts. The 16-member Supreme Court is the system's highest court and, in addition to administering the judicial system, is responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the Attorney

General's Office rather than the police investigate crimes committed by and against juveniles. The 1994 military code requires that the civilian court system try members of the military charged with common crimes. The Assembly continued to work on the revision of the country's outdated Criminal Code. In June 2002, the old Criminal Code was modified to include certain economic crimes, including illegal enrichment. The 1999 Judicial Organic Law contained a provision that established minimum professional standards for judicial appointees.

In 2000, the Government opened property tribunals to handle cases concerning properties seized during the Sandinista (FSLN) regime in the 1980s. In November 2002, the Supreme Court consolidated these tribunals into a single tribunal. The property tribunal has been extremely vulnerable to political pressure.

The civil and criminal courts continued to expedite the judicial process for those in prison awaiting a final verdict, and the number of such suspects decreased, partly because of a new Criminal Code. Human rights and lawyers' groups continued to complain about the delay of justice caused by judicial inaction. Judges were susceptible to corruption and political influence. Rulings in favor of those who are politically connected remained the most visible manifestation of judicial corruption. In June, the National Assembly elected 8 of 16 Supreme Court (CSJ) magistrates in what was widely reported to be a back-room political deal. All eight magistrates had strong political loyalties, either to former President Aleman or the FSLN. The leading political parties in the Assembly ignored lists of experienced and politically neutral candidates proffered by civil society and the Bolanos Administration. As a consequence, a November Gallup poll showed only 6 percent of the population opposed reforming the CSJ.

The justice system was in the hands of the FSLN, to which approximately 70 percent of the judges belonged, and the FSLN used the judiciary to serve its political purposes. This was especially true in impeding resolution of property claims.

At year's end, the Supreme Court, deadlocked over political control, had not functioned or reviewed cases for over 2 months. This had a cascade effect on the administration of justice; many criminal and constitutional cases were left unresolved, and judicial positions in the appellate and lower courts, normally assigned by the CSJ, went unfilled. The appellate courts in several major cities, including Granada and Masaya, were forced to send appeals to other jurisdictions, which were not able to deal with these new cases because of their own backlogs. Wrangling between the FSLN and PLC over the election of Chief Justice and control of key constitutional and civil chambers within the CSJ, evenly split along political lines, remained unresolved with no apparent resolution in sight.

On December 8, Judge Juana Mendez found former President Aleman guilty of money laundering, fraud, and other charges, sentenced him to 20-years confinement at his ranch, and ordered him to pay a \$17 million fine (26,486,000 cordobas). Press reports indicated that the sentence was nearly brokered away in a backroom deal with the FSLN. The FSLN reportedly offered a reduced sentence for Aleman in exchange for control of key positions in the Supreme Court. However, the outcry from civil society and the international community derailed the deal.

In December, Iliana Perez, a judge with strong ties to the FSLN, acquitted Silvio Conrado, an influential and long-time FSLN financial advisor, of child molestation. During the trial, at least one minor testified that Conrado had sex with her and 3 other girls between the ages of 13 and 16 after Conrado's chauffeur transported them from school to a hotel room where Conrado was waiting for them. Other witnesses testified that they had seen Conrado's employees take the alleged victims to Conrado's hotel. Child molestation has serious criminal penalties under the law. Judge Perez refused to allow the testimony of these witnesses to be admitted in court, apparently in contravention of accepted procedure in child abuse trials. Numerous groups repudiated the judge's decision, including Special Ombudsman for Children Carlos Emilio Lopez, CENIDH, the Ministry of Family, and Casa Alianza, charging that the FSLN and its leader, Daniel Ortega, politically directed the dismissal to protect a key party official. Initial appeals by the prosecutor and Casa Alianza were rejected, but Casa Alianza vowed to continue the appeals process.

The Supreme Court's campaign to reduce incompetence and corruption in the judiciary continued during the year. Since the campaign began in 1997, the CSJ has removed a total of 115 judges--more than one-third of the 300 judges in the system; 10 judges were removed through July.

Until the end of 2002, the country used the Napoleonic legal system for all offenses, and that system still was used for many cases. Police had to present a detained suspect before a judge within 48 hours, who had to hold a preliminary hearing within 10 days. These constitutionally mandated deadlines were usually observed. If a judge ruled the suspect was provisionally guilty at the preliminary hearing, the suspect was sent to trial. While awaiting and undergoing trial, suspects were often held in custody. The trial consisted of hearings held by the judge to investigate the matter further, followed by a review of the written record of the hearings by a five-member jury, which would issue a final decision. Very simple cases or those with high profile or outside interest could be resolved quickly, but others languished for months. Although the legal limit for resolution was 6 months, 560 suspects were held without trial for longer periods during the most recent year that statistics were released by the CSJ.

A new Criminal Procedures Code entered into effect for serious offenses in cases brought after December 24, 2002. The new code is more adversarial and transparent and relies more on the initiative of prosecutors and less on the initiative of judges and magistrates to file charges. It prescribes an arraignment at which a judge decides whether to send the case to trial or dismiss it. Once the case reaches trial, the judge takes a neutral presiding role, and both sides present oral arguments to a jury. The new system only applied to the most serious offenses; however, by December 2004, it will apply to all new criminal cases. The new system offers greater transparency by allowing the accused greater access to the process. The new system strengthened the judiciary, reduced substantially the case backlog, and shortened the average time for a verdict to 15 days as the result of a better coordination between all parts of the law enforcement process. An outside evaluation concluded that there was greater transparency among judges applying the new code, although it documented a need for more personnel in the system, including public defenders.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The Judicial Organic Law provided for the establishment of a Public Defender's Office to represent indigent defendants. The office is staffed by 47 public defenders assigned to district courts across the country, up from 13 in 2002. The district court of Managua maintained a staff of 13 public defenders throughout the year. In courts other than district courts, where public defenders were not available, the system in effect before the passage of the Judicial Organic law continued in use. Under that system, the presiding judge appointed attorneys from a standard list to represent indigent defendants. However, many attorneys paid a small fine rather than represent such clients because the State did not pay for attorneys for the indigent. Under the new criminal procedures code, the number of indigent defendants who went to trial without an attorney decreased as the judges assumed an oversight role in court proceedings.

The country still lacks an effective civil law system. Many criminal cases are really civil disputes. Often the effect of a criminal proceeding in these matters is to force one party to concede to the party with more influence over the judge rather than face the prospect of detention in jail. In addition, this civil-based criminal caseload diverts resources from an overburdened Prosecutor's Office that otherwise could be directed toward genuine criminal matters. There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers. Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, several constitutional provisions potentially qualify freedom of the press. The 1987 Constitution stipulates that citizens have the right to accurate information, thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, the law establishes a retroactive liability, implying the potential for sanctions against the press; however, the Government did not invoke these provisions to suppress the media. The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public without government interference. News media covered a series of scandals and allegations of government corruption without restriction.

The Bolanos administration attempted to standardize the way government advertising funds were allocated to the various media outlets by implementing a system based on market share. This forced some smaller media outlets to close because the media were largely dependent upon government funding, and there was not enough private advertising to support them.

On October 22, judge Juana Mendez banned El Nuevo Diario newspaper journalist Eloisa Ibarra from reporting that Mendez had permitted former President Arnoldo Aleman to have a cell phone while in prison. Judge Juana Mendez issued a judicial order prohibiting Ibarra from covering the story because of a previous story she published that was critical of the judicial system. Mendez told other journalists that were allowed to cover the story, "So the rest of you better behave."

In October, the Inter-American Press Association (IAPA) reported threats against reporters investigating ties between drug trafficking and government institutions. For example, on May 23, La Prensa's correspondent in Bluefields, Sergio Leon, and La Prensa's editor, Freddy Potoy, received death threats after publishing a series of reports that implicated the chief of the anti-drug department of the National Police of the Atlantic Coast, Oscar

Larrave, in drug trafficking and illegal enrichment. The nongovernmental organization (NGO) Journalists Against Corruption asked National Chief of Police Edwin Cordero to guarantee the physical safety of both journalists.

On June 3, Pablo Lastangarth, a reputed drug dealer in the Atlantic Coast town of Puerto Cabezas, threatened La Prensa's correspondent Walter Treminio, because of Treminio's May 26 investigative report regarding judicial anomalies in a case related to drug trafficking.

On June 4, 50 supporters of former president Aleman threatened and physically attacked journalists from the national media who were covering the visit of Aleman's wife, Maria Fernanda Flores, to the Managua Criminal Court. Supporters of the PLC accompanied Flores and attacked the journalists because of their reporting on Aleman corruption cases. The crowd insulted and threatened reporter Lucia Pineda Ubau from television station Canal 2. The Special Ombudsman for Human Rights condemned this and several similar confrontations with journalists.

In May, a jury acquitted Tirso Moreno of all charges in connection with his October 2002 breaking into the offices of La Prensa and holding a dozen staff members hostage for several hours. The Nicaraguan Journalist Union and IAPA criticized the verdict as "a dangerous precedent for reporters and the Nicaraguan Court of Justice."

The news medium with the largest national audience is radio; however, polls showed that television is the primary source of news in the cities. There are 174 chartered radio stations in the country, 68 AM stations and 106 FM stations; listeners receive a wide variety of political viewpoints, especially on the 67 stations based in Managua. There are 10 Managua-based television stations, 8 of which carry news programming, some with noticeable partisan political content. In addition, there are 6 cable television franchises that offer services in most large and medium-sized cities. The Government did not restrict access to the Internet. The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association The Constitution recognizes the right to peaceful assembly, and the Government generally respected this right in practice.

However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization in conformity with the law, and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission; however, many groups claimed that the process was too cumbersome and marched without registering.

Throughout October, November, and December, thousands of university students organized protests in Managua regarding the Government's failure to increase the education budget. During many of these protests, some of the students became violent, injuring police and bystanders, throwing Molotov cocktails and homemade mortars, damaging property, and disrupting traffic throughout the city. The violence sparked confrontations with police, who often arrested violent participants, usually releasing them the next day. During each such violent protest, several persons, sometimes including police, were taken to local hospitals and treated for tear gas inhalation and other injuries. National Police Chief Edwin Cordero repeatedly affirmed the student's right to protest as long as they remained peaceful. In November, the Government charged six students with terrorism for their actions in instigating violence during the protests. On December 8, two students were acquitted; charges against the rest of the students were pending at year's end.

The Constitution provides for the right to organize or affiliate with political parties, and the Government generally respected this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive authorization from the National Assembly, which confers it routinely.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government's requirements for legal recognition of a church are similar to its requirements for other private associations (see Section 2.b.). A church must apply for "Personeria Juridica" (legal standing), which the National Assembly must approve. Following Assembly approval, a church must register with the Ministry of Government as an association or a foundation. The Roman Catholic Church is not an official state religion; however, it has traditionally enjoyed a close relationship with the Government. Its relationship with the Bolanos Administration was more distant. The Roman Catholic Church is the most politically active religious denomination and has significant political influence. At times, there have been allegations that government officials have given financial assistance to the Catholic Church. However, the predominance of the Catholic Church did not have a negative impact on the freedom to practice other religions.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27906pf.htm).

d. Freedom Of Movement within The Country, Foreign Travel, Emigration, And Repatriation

The Constitution provides for these rights, and the Government generally respected these rights in practice. The right of citizens to return to the country is not established in the Constitution, but, in practice, the Government did not restrict its citizens' return. The Constitution was amended in 2000 to affirm that citizens cannot be deprived of their citizenship, and that citizenship is not lost by acquiring another citizenship. However, the Constitution retains certain citizenship requirements for high-level government officials, including the provision that they must renounce citizenship in other countries at least 4 years prior to their election or appointment.

The law includes provisions for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

Section 3 Respect for Political Rights: the Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November 2001.

The Constitution distributes power and authority among the four co-equal branches of government. The President heads the Executive Branch and appoints a Cabinet. The President is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 35 percent of the vote on the first ballot.

The Constitution does not permit the President to hold consecutive terms in office. A single-chamber, 91-member National Assembly exercises legislative power. In 2001, voters elected 90 members, including 20 deputies from nationwide lists and 70 from lists presented in each of the 15 departments and the two autonomous regions. The outgoing President and the presidential candidate receiving the second highest number of votes are each given seats in the National Assembly; however, outgoing President Aleman was removed from his seat when he was convicted on money-laundering charges. Members elected concurrently with the President and Vice President in 2001 are scheduled to complete their 5-year terms on January 9, 2007.

According to the Constitution, the CSE is supposed to be an independent fourth branch of government. However, the CSE was highly politicized and subject to political influence. For much of the year, the CSE did not function, paralyzed by internal political disputes and a top-heavy bureaucracy. It verged on bankruptcy, even after firing 50 percent of its workers. It could not pay the remaining employees for months on end, and many of them went on strike, suspending the issuance of national identity cards that are required to vote. Nevertheless, CSE magistrates raised their own annual salaries by 100 percent to as much as \$155,494 (2,332,500 cordobas), roughly 60 percent more than the salary of government ministers. Many observers feared that CSE would have problems conducting upcoming municipal and national elections unless the situation was reversed. In 2002, the CSE prevented regional election results from being implemented for many months (see Section 5). As a consequence, the CSE retained little confidence as an institution; a November Gallup poll showed only 6 percent of the population opposed reforming the CSE, and only 38 percent had any confidence that it could manage upcoming municipal elections.

In 2001, generally free and fair national elections were held under the auspices of the CSE. Voters elected Enrique Bolanos Geyer of the Liberal Constitutionalist Party president with 56 percent of the vote; Sandinista candidate Daniel Ortega received 42 percent. In the simultaneous legislative elections, the ruling PLC alliance won 52 deputy seats, the FSLN won 37, and the Conservative Party won 1 seat. CSE reports indicated that over 90 percent of eligible voters were registered; the CSE also announced that more than 92 percent of eligible voters cast ballots.

In September 2002, in what was widely considered a political decision, Judge Mendez charged President Bolanos, Vice President Rizo, and about 30 other leaders of the PLC in a campaign finance case. The case involved the alleged misuse of government funds and foreign government donations in the PLC's 2000 municipal election campaign and its 2001 national election campaign. The President presented exculpatory evidence, although the President and Vice President enjoyed immunity from prosecution and the National Assembly did not remove that immunity. The case has not proceeded against the other individuals charged.

There are no legal impediments to the participation of women, indigenous people, and other minorities in government and politics. Women held ministerial, vice ministerial, and other senior positions in government; and voters elected 21 women to the National Assembly in November 2001, out of a total of 90 elected members. In addition, 5 of the 16 Supreme Court (CSJ) justices were female, and in 2002, the Magistrates of the CSJ elected Alba Luz Ramos as President, the first woman President in the history of the Court. Women held approximately 70

percent of the judgeships in the country. Two members of the National Assembly claim indigenous heritage. To ensure participation by indigenous groups, political parties must include on their party tickets a certain percentage of candidates from the various indigenous populations.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic (and international) human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The largest group to deal with general issues of human rights was CENIDH. Many such human rights groups focused most of their attention on controversial economic rights, such as access to employment, social security, healthcare, and education. Other groups focused on a particular area of human rights, such as Casa Alianza, which primarily concentrated on children's issues, and the Women's Network, which addressed domestic violence and other women's issues. CENIDH continued to conduct human rights workshops at the police academy, at various police headquarters, and with army units throughout the country. The military academy instituted human rights training as part of their core curriculum, and some military officers received internationally sponsored human rights training.

The Organization of American States (OAS) Technical Cooperation Mission (TCM) focused on the municipalities affected most adversely by the 1980-90 civil war and worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure. The TCM and Catholic Relief Services helped maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a sustainable means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operated in areas that were without any governmental presence and served as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year.

The PPDDH, the autonomous government-financed human rights office, struggled with budget shortfalls. In 1999 the National Assembly elected the country's first Ombudsman, Benjamin Perez, to a 5-year term. There are also special ombudsmen for children's issues, women's issues, and indigenous affairs. The PPDDH began to investigate actively human rights violations during 2000 and demonstrated independence from the administration, pursuing cases even if they contradicted government policies. The Aleman administration cut the budget of the Ombudsman's office by nearly 40 percent. Its original budget has never been restored. The PPDDH is subject to political pressure.

By July, the PPDDH had registered a total of 2,686 complaints against the Government since President Bolanos assumed control in January 2002. Many of these cases included economic and social issues, such as access to health, education, and social security, as well as human rights issues. Ombudsman Perez criticized government institutions for their lack of response in many of these cases.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, opinion, national origin, economic condition, or social condition; however, in practice, the Government made little or no effort to combat discrimination. Few, if any, discrimination suits or formal complaints were filed with government officials.

Women

The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and underreported. In 2002, the most recent year for which statistics were released, the National Police reported that of 41,487 reports filed by women more than 19,788 concerned physical or sexual abuse, a 47 percent increase in the number of reported cases from 2001.

The 1996 Law against Aggression against Women reformed the Criminal Code to criminalize domestic violence and to provide up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women feared for their safety. The National Police, as well as local human rights groups, confirmed that while police sometimes intervened to prevent domestic violence, they rarely prosecuted perpetrators because victims often refused to press charges. Those cases that actually reached the courts usually resulted in not guilty verdicts due to judicial inexperience and lack of legal training.

The Criminal Code provides punishment for sexual abuse and stipulates that any person convicted of physically abusing or raping another person can be sentenced to between 9 months and 4 years in prison; this penalty is increased to 3 to 20 years if the victim is less than 10 years of age or if the perpetrator is a parent or guardian of

the victim. According to the most recent statistics from the National Police, the police received 1,308 rape complaints during 2002, compared with 1,170 reported instances of rape in 2001. Many women were reluctant to report abuse or file charges due to the social stigma attached to rape.

The police manage 18 women's commissariats in 18 cities with a total staff of approximately 100 people. Each commissariat is located adjacent to a police station and is supposed to be staffed by six police officers, two social workers, one psychologist, and one lawyer. However, due to a lack of funding, the staff size is often limited. The commissariats provide both social and legal help to women and mediate spousal conflicts. They also investigate and help prosecute criminal complaints and refer victims to other governmental and nongovernmental assistance agencies. The commissariats reported 10,227 cases of domestic violence and 2,245 cases of sexual infractions for the year, more than quadruple the figures for 2002. It is not clear that there was an actual increase in the rate of domestic abuse or if the soaring numbers were due to other factors, such as the increased confidence that victims have in reporting their abuse to the women's commissariats and the increased number of commissariats.

In May 2002, the Appeals Court denied the appeal by Zolamerica Narvaez of the 2001 decision by Judge Juana Mendez to drop sexual molestation, harassment, and rape charges against former President Daniel Ortega on the grounds that the 5-year statute of limitations had expired. The case was stalled before the Supreme Court at year's end. In March 2002, the IACHR held a hearing on the Narvaez case, focusing on the issue of whether the Government had denied Narvaez due process, but suspended consideration while the Government negotiated an "amicable solution" to the case with Narvaez. In September, Narvaez charged that the Government was negotiating in bad faith and returned the case to the IACHR. The IACHR had not ruled on the case by year's end.

Prostitution is legal and common. According to a number of sources, including the Director of Police Criminal Investigations, and the Director of Police Economic Investigations, prostitutes work without a pimp, since prostitution is legal but pimping is not. Statistics from the Women's Commissariats showed only three cases of pimping for the year throughout the country. A number of studies support this, including an intensive analysis done during the year by the University of Central America in the tourist city of Granada, in which all the under-aged prostitutes interviewed told the researchers that they operated on their own. In Managua most prostitutes work on the streets, clandestinely in nightclubs and bars, or offer sexual services in massage parlors. In several raids on these businesses, police did not find underage workers, although there were reports that some workers are below the age of 18. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, who are often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations and a card certifying if they are free of disease. In addition, prostitutes in Corinto reportedly often work together to maintain a rudimentary price-setting structure that enabled them to earn much more than they would in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

There were credible reports of isolated cases of the trafficking of women for prostitution (see Section 6.f.). The law prohibits sexual harassment in the workplace; however, it continued to be a problem. Although the Constitution provides for equality between the sexes, discrimination against women persisted. According to a poll released in 2000 by the Nicaraguan Women's Institute in conjunction with the Government, women comprise approximately 61 percent of the public sector labor force, a number much larger than in the private sector. It also showed that even with comparable educational backgrounds, salaries for male and female workers differ significantly, with men sometimes making twice as much as women in the same positions. Even with similar qualifications, men advance more quickly than women. Women constitute the majority of workers in the traditionally low-paid education and health service sectors.

Women are generally underpaid, but the majority of women have some type of employment. A 2001 International Labor Organization (ILO) study concluded that of the 561,000 employed women, 184,000 were self-employed and 377,000 were salaried workers. More than 92 percent of women capable of employment have some type of job, higher than the national average.

There are many NGO and government programs that target discrimination against women, mostly by analyzing the status of women in the workplace.

Children

The Government expressed its commitment to children's human rights and welfare publicly; however, government-wide budget constraints prevented it from providing adequate funding levels to children's programs or primary education. The National Council for the Development of Children and Adolescents, a broad group of government ministries and agencies concerned with youth, is responsible for the Government's policy on youth, and developed an ambitious 10-year National Action Plan for Children and Adolescents. A constitutional provision known as the 6 percent rule automatically allots 6 percent of the annual budget to a university education consortium, vastly disproportionate to funding for primary and secondary education programs. Children 15 years of age and younger

made up approximately 39 percent of the population. Education is compulsory through the sixth grade, but this provision is not enforced; according to a national survey conducted by the Ministry of Labor in 2000, 49.1 percent of children and adolescents do not attend school. Another 18.6 percent said their work interferes with their school attendance. As a result, 22.1 percent of the population was classified as illiterate, according to the survey. According to census figures from 2001, primary school enrollment rates for boys and girls were estimated at 75 and 80 percent respectively, up from 73 and 75 percent in 1995. However, secondary school enrollment rates dropped to 35 and 45 percent from 1995 levels of 39 and 47 percent.

Juvenile offenders under the age of 17 comprise less than 1 percent of incarcerated offenders. This low figure is largely attributed to the leniency given to juvenile offenders by the Children's Code, which rarely gives jail time to juveniles. During the 2002, the last year for which statistics were available, 47 minors died as a result of violent crime. During the same period, victims of rape included 277 children under the age of 13 and 658 between the ages of 13 and 17. There were an estimated 1,216 reported cases of child abuse (physical and psychological), 314 cases of child kidnapping, and 100 children who disappeared. The National Police estimated that about 63 percent of sexual abuse victims were under the age of 18, and that 36 percent were younger than 13. According to local media and the Ministry of the Family, the incidence of underage prostitution increased, especially in Managua, but also near border cities and ports (see Section 6.f.). An intensive analysis done during the year by the University of Central America in the tourist city of Granada reported that all the under-age prostitutes interviewed told the researchers that they operated on their own. OAS personnel in the country also noted an increase in prostitution among girls as young as 10 years of age; in rural areas, their clients are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway.

The Child and Family Law provides that juvenile prisoners cannot be held in adult facilities or for more than 24 hours without being charged (see Section 1.c.). Child labor is a problem (see Section 6.d.).

Persons with Disabilities

The National Council for Rehabilitation of the Ministry of Health addresses the needs of the 600,000 citizens with some type of disability, only 3 percent of whom received medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGOs, foreign governments, the OAS, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members. Despite some efforts, the Government's past role in helping the disabled is minimal and often has been criticized. It has not legislated or otherwise mandated accessibility to buildings for the disabled.

The 1995 Law to Protect Disabled People states that companies are obligated to contract persons with disabilities, that such disabilities cannot affect their salaries, and that disabled persons must be considered equal to other workers. However, this law rarely is enforced.

Indigenous People

Indigenous people constitute approximately 5 percent of the country's population and live primarily in the RAAN and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory, but include only 12 percent of the population. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the 4 major identifiable indigenous groups are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000).

The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political party known as Yatama, which has representation in regional and municipal councils. In 2000 the CSE ruled that the Yatama political party did not meet the qualifications to participate in the 2000 municipal elections; however, it reversed its decision following the election after a high rate of abstentions in Yatama-dominated areas and threats of violence by Yatama supporters. Yatama was allowed to run departmental candidates for the National Assembly in the 2001 national elections (see Section 3). In July, Yatama brought a lawsuit against the Government before the IACHR. The lawsuit claimed that by denying Yatama recognition as a political party in the 2000 municipal elections, the CSE had violated their human rights. The IACHR had not made a decision to accept the case by year's end.

In 2002, regional elections were disrupted by political manipulation on the part of the CSE. The CSE refused to certify the elections of governors and executive councils in the Autonomous Regions, largely for political reasons. This left the affected regions without regional authorities for most of that year.

As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources; however, indigenous people claim that the central Government often made decisions without adequate community consultation. For example, in July 2002, the central Government decided to announce its intention to solicit bids for oil and gas exploration off the Atlantic coast without consulting with either regional leaders or communities.

In 2001, the IACHR ordered the Government to establish new legal mechanisms to demarcate the traditional lands of all indigenous communities in the country within 15 months and to pay \$30,000 (420,000 cordobas) to the Awas Tingni Sumo Community and to invest \$50,000 (700 thousand cordobas) in projects beneficial to the Sumo. Pursuant to the IACHR's decision, the Government paid the \$30,000 and said it was committed to funding more than \$50,000 in Sumo community projects. The Ministry of Agriculture, the Office of Property Affairs in the Ministry of Finance, the regional authorities on the Atlantic Coast, and the Special Ombudsman for Indigenous Affairs formed a commission that proposed a number of legal changes and mechanisms to the National Assembly, including the clear demarcation and protection of indigenous lands. This legislation was voted into law in December 2002, meeting the IACHR deadline. In July, the Government established a Territorial Demarcation Commission, as required by the legislation, to begin the process of delineating indigenous territories. The commission included substantial indigenous representation but predicted that the demarcation process would require as many as 15 years to complete because of its scope and technical nature.

In April 2002, assailants shot and killed Francisco Jose Garcia Valle, husband of Dr. Maria Acosta, lawyer for indigenous rights in the Atlantic Coast known for her work fighting the controversial sale of the Pearl Cays off the coast by private realtor Peter Tsokos. Police reported that Tsokos employed one of the killers, Ivan Rivera, as a chauffeur and security guard, and some suspected that Tsokos, along with his lawyer Peter Martinez, had instigated the crime to silence Acosta. The police arrested Wilberto Jose Ochoa, one of Rivera's accomplices, who confirmed that Rivera led the group and committed the murder. Police matched the 25-caliber murder weapon to one registered to Martinez, who alleged that the police falsified the ballistics report. In 2002, shortly after the crime was committed, local judge Julio Acuna issued an arrest warrant against Rivera but absolved Tsokos and Martinez. Another local judge, Anabel Omier, issued arrest warrants against the police for falsifying the ballistics report implicating Tsokos and Martinez. Shortly thereafter, the Disciplinary Committee of the Supreme Court removed both judges, dismissing Omier and transferring Acuna. On November 21, a Bluefields jury found both Ochoa and Rivera guilty of murder for hire. At year's end, Acosta was petitioning the Supreme Court to re-open the case against Tsokos and Martinez.

Government health care exists in the Atlantic Coast towns of Puerto Cabezas, Siuna, Bonanza, Rana, and Bluefields, but a majority of indigenous people in rural areas had no access to modern health care, and deteriorating roads made medicine and health care almost completely inaccessible in many communities. Critics of government policy cited extremely high unemployment rates among the indigenous, but calculation of reliable employment statistics was complicated because most of the working indigenous population on the Atlantic Coast is engaged in subsistence fishing, farming, and mining.

On March 17, approximately 50 Miskito Indians took hostage 5 narcotics police officers who had been part of a task force sent to locate cocaine from a downed airplane. When the officers tried confiscate cocaine recovered by the Miskitos, they rebelled and took them hostage. After 2 days of negotiations, the Miskitos released the officers but kept the drugs. The incident demonstrated how the lack of a government presence, ethnic tensions, poverty, and drug-based economic opportunity has created an ungoverned space in the RAAN.

National/Racial/Ethnic Minorities

Most citizens are of mixed background, and ethnicity is not a barrier to political or economic success. However, various indigenous and ethnic groups from both the RAAN and the RAAS sometimes linked the Government's lack of resources devoted to the Atlantic Coast to ethnic, racial, and religious minorities that predominate in that region. In contrast with the rest of the country, the region's racial makeup tends to be black and Amerindian, while its religious makeup is principally composed of various Protestant denominations.

a. The Right of Association

The Constitution provides for the right of workers to organize voluntarily in unions, and the Labor Code reaffirms this right. The ILO has criticized various provisions in the Labor Code that remain below international standards. However, a September review of Nicaragua's labor laws done by the ILO at the invitation of the Minister of Labor noted that the 1996 Labor Code reform had taken previous ILO recommendations into account. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. The Labor Code permits the existence of more than one union, representing the same group of workers, at any place of employment. To become a union, a group of at least 20 persons must petition the Ministry of Labor for legal status and the right to engage in collective bargaining (see Section 6.b.). The Labor Code legally recognizes cooperatives, into which many transportation and agricultural

workers are organized. Representatives of most organized labor groups criticize these cooperatives, and assert that they do not permit strikes; have inadequate grievance procedures; are meant to displace genuine, independent trade unions; and are dominated by employers. According to the Ministry of Labor, approximately 15 percent of the work force is unionized. Unions are independent of the Government, although most are affiliated with political parties to varying degrees.

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause to fire union executive board members. Such protection is limited to nine persons per union. However, the Labor Code also allows businesses to fire any employee, including union organizers, provided the business pays the employee double the normal severance pay. Business leaders sometimes used this practice to stymie unionization attempts. Unions freely form or join federations or confederations, although there are some limits placed on the participation of such groups in "sympathy strikes," and affiliate with and participate in international bodies.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to bargain collectively, and the Labor Code reaffirms this right. The Government generally sought to foster resolution of pressing labor conflicts through informal negotiations rather than through formal administrative or judicial processes. According to the Code, companies engaged in disputes with employees must negotiate with the employees' union if the employees are organized. However, the possible existence of more than one union at any place of employment means that several unions, each with different demands, can coexist at any one enterprise. Similarly, management may sign collective bargaining agreements with each union. The Constitution recognizes the right to strike; however, legal strikes were rare. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. The Labor Code requires that before a union may strike, it must first receive approval from the Labor Ministry. To obtain approval, the union must go through a process that requires good faith negotiation with management. The Labor Ministry asserts that the process is necessary to avoid purely political bad-faith strikes in the highly politicized environment of labor relations that has existed in the country for several decades. Observers contend that the process is inappropriately lengthy and so complex that there have been few legal strikes since the 1996 Labor Code came into effect in 1996; however, during the year a strike of government workers against the Supreme Electoral Council went through the approval process relatively rapidly (see Section 3). There have been several illegal strikes.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Workers involved in illegal strikes often lose their jobs. There were several allegations of violations of the right to organize. The Ministry of Labor investigated these allegations and concluded that employers acted within the law, taking advantage of the extensive administrative requirements necessary to declare a strike legal. Notwithstanding the legality of employer actions, the result was to weaken significantly the Sandinista Workers Central (CST), an important union politically associated with the FSLN in the Free Trade Zones (FTZ). In the last few years, though not during the year, the CST declared several strikes without first exhausting the very lengthy and complex administrative process of getting the required approval of the majority of the workers. Consequently, the Ministry of Labor consistently ruled the strikes illegal. Employers then fired the striking workers based on the Ministry's ruling. In essence, employers took advantage of the extensive administrative processes required to declare a strike legal and the CST's failure to follow the prescribed rules.

On January 23, 50 workers at the FTZ garment factory Presitex held an impromptu strike over what they claimed was a unilateral breach of their contract by Presitex. The company wanted to change the wage system from a per-hour to a per-piece basis but claimed to have presented it as a proposal to the union, rather than as a unilateral contract change. Presitex also said that the proposal gave workers the option of keeping their current wage. Nevertheless, the incident escalated, and on January 28, the striking workers allegedly forced a work stoppage at the factory by damaging equipment and intimidating non-striking workers, according to Presitex management. Presitex then locked out its workers until January 31, when they returned to work peacefully. The company petitioned the Ministry of Labor for permission to fire the union board members for organizing an illegal strike, which the Ministry of Labor eventually approved, allegedly under strong political pressure. In addition, Presitex initiated criminal and civil charges against the workers for more than \$2 million (31.08 million cordobas) in damages. In August, judge Marta Susana Gonzalez acquitted the union members of the civil and criminal charges.

The 2001 appeal by the textile firm Mil Colores of a judge's order reinstating Juan Carlos Smith Flores was settled when Smith Flores accepted a financial settlement from Mil Colores.

On July 17, an inspector from the Ministry of Labor found several infractions, including the failure to pay overtime at the rate required by the labor code, at the FTZ garment factory KB Manufacturing located in Granada. In August, the company adjusted its overtime payments accordingly. On November 18, the CST filed a lawsuit against the company in the Granada labor court for \$60,394 (940,951 cordobas) in unpaid overtime accumulated since 1999.

The company agreed to pay the workers for unpaid overtime accumulated since 2002 but said its liability for the error was limited to 1 year by the Labor Code. The court had reached no final decision on the CST lawsuit at year's end.

On September 19, Alvin Guthrie was fired from his position as labor advisor at the government-owned FTZ Corporation, ostensibly due to inter-office restructuring, after attempting to form a union among the FTZ office workers. Guthrie, a founder of the CUS independent union and former governor of the RAAN, acquired signatures from 32 of the 72 workers at the FTZ, enough legally to create a union, and submitted a petition to form a union to the Minister of Labor. The FTZ Corporation management said Guthrie was released for breach of trust, since Guthrie deceived the workers and told them he was acting under management orders when he collected their signatures. Most of the workers withdrew their signatures when management approached and questioned them. The law prohibits employers from interfering in any way with the creation of a union. Since the petition no longer had enough signatures to meet the minimum requirement to form a union, the Ministry of Labor denied Guthrie's application to form a union.

On November 27, the ILO agreed to consider a case brought by the CST charging the Sandinista Mayor of Leon with breaching the labor rights of city workers. The CST claimed that the city was ignoring the collective agreement it signed with city workers and the union. The CST also charged that the Ministry of Labor did not fulfill its obligation under international treaties to enforce the collective agreement. The Ministry of Labor said that the dispute arose from confusion between agreements that the city had signed with competing unions, one of which was the CST. The case was pending before the ILO at year's end.

On November 27, CST workers at the FTZ garment factory Presitex elected a new nine-member executive board and notified the Ministry of Labor as required. According to CST, on Christmas Day Presitex fired the entire newly elected union board in contravention of specific provisions in the law that protect union board members from being fired. Presitex told the FTZ Corporation that four of the nine board members resigned. It claimed that the rest were part of the January wildcat strike, so their dismissal had previously been approved by the Ministry of Labor. It did not explain why the four board members had inexplicably resigned, nor why it had waited until December to fire the five others. The CST had not appealed the dismissals to the Ministry of Labor at year's end.

In 2001, the CST workers at the FTZ garment factory Mil Colores elected Maria Elia Martinez Rivas as union secretary general. To comply with the 20-member requirement and avoid being decertified, the CST union enlisted new members. On February 8, Mil Colores fired Martinez Rivas, who claimed that she did not infringe on any regulations and had never received a reprimand. Martinez Rivas, with the aid of the CST, took the issue to court and alleged that, by impeding the workers' right to organize, Mil Colores violated the Constitution, laws, human rights, and international agreements. In December 2002, Martinez Rivas resolved the case by accepting a financial settlement from Mil Colores.

There are 16 enterprises operating in the government-run FTZ, employing approximately 30,000 workers. Labor laws apply equally in the FTZs. In addition, there are 20 authorized private FTZs; some are still under construction, but the 51 enterprises currently operating in these zones employ some 27,990 workers, for a total of 57,990 workers in all FTZs. Sixty-four percent of the workers in the FTZs are represented by one of 43 different union organizations associated with 8 different labor confederations; however, only about 1,793 of them, or 5.9 percent, are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. The overwhelming majority of the workers in the FTZs are women. Ten thousand workers, or about 19 percent of those in the FTZs, belong to the labor NGO Maria Elena Cuadra Women's Labor Movement (MEC), which has a presence in 58 of the factories. While not a union, MEC is a strong independent advocate for the rights of women laborers. Union organizing efforts have encountered strong employer opposition in the FTZs.

In response to longstanding complaints by union representatives that the Ministry of Labor poorly enforced the Labor Code in the FTZs, in 1997 the Ministry opened an office in the Managua FTZ to ensure that the code was being enforced. FTZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980s, many workers in the FTZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in FTZ enterprises are better than the national average. For example, some FTZ enterprises assert that they pay wages that average over \$192 (2,400 cordobas) per month, almost three times the minimum wage.

Fines levied by the Ministry of Labor against employers violating the Labor Code did not serve as effective deterrents. The maximum fine is only \$650 (10,000 cordobas), and there is no collection mechanism; companies rarely paid the penalty assessed.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor but does not specifically address forced or bonded labor by children, and such practices occurred. The Ministry of Labor continued to report that parents forced some children to beg, and that some parents rented their children to organizers of child beggars (see Sections 6.d. and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution provides for the protection of children's rights and prohibits child labor that can affect normal childhood development or interfere with the obligatory school year; however, child labor is a problem. Comprehensive labor legislation protects children up to the age of 18. The Constitution also provides protection from any type of economic or social exploitation. The law prohibits child labor in areas such as mines and garbage dumps and imposes heavy fines for illegal employment. The Labor Code raised the age at which children may begin working with parental permission at 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. On October 15, the President signed an amendment to the code to strengthen its child labor provisions. The new law makes it more difficult to obtain permission for children aged 14 to 16 to work, raises fines for violators, and permits inspectors to close facilities employing child labor. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

The Government reported that child labor occurred in both urban and rural areas. The majority worked in the informal sector, often for family ventures. In Managua over 6,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Ministry of Labor continued to report that some children were forced to beg by their parents, and that some parents rented their children to organizers of child beggars. Child prostitution is a serious problem (see Section 6.f.). The Ministry of Labor established an inspection unit to monitor occupational safety and health in the agricultural sector, signed agreements with nightclubs and restaurant owners who pledged to comply with labor laws, and issued a resolution in 1999 prohibiting employment of minors specifically in the FTZs. The Ministry of Family sponsors a unified national program targeting high-risk minors. This program, with a budget of \$1.2 million (18,648 million cordobas), covers up to 11,000 children nationwide, includes childcare services, return-to-school programs, and technical and vocational training.

e. Acceptable Conditions of Work

The statutory minimum wage is set through tripartite (business, government, and labor) negotiations and must be approved by the National Assembly. Each key sector of the economy has a different minimum wage, which must be reviewed every 6 months. A new minimum wage scale took effect in July, raising the minimum wage by 6 to 14 percent, varying by sector. As a comparison, inflation for the year was 6 percent. The majority of workers earn well above the statutory minimum rates. By sector, the minimum monthly wage was as follows: Agriculture, \$39 (615 cordobas) plus food; fisheries, \$61 (952 cordobas); mining, \$74 (1,150 cordobas); industrial manufacturing, \$53 (825 cordobas); electric, gas, and water utilities \$76 (1,178 cordobas); construction, \$93 (1,450 cordobas); restaurants and hotels, \$57 (890 cordobas); transportation, \$93 (1,178 cordobas); banking, \$93 (1,450 cordobas); community and social services, \$57 (890 cordobas); and central and municipal government (includes health and education employees), \$51 (801 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. In every sector, the minimum wage falls below the government estimate of what an urban family must spend each month for a basic basket of goods \$141 (2,065 cordobas).

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with one day of rest weekly. This provision was routinely ignored, although employers claimed that workers readily volunteer for these extra hours for the extra pay. The code established severance pay at from 1 to 5 months, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an employer's obligation to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. During the year, the Ministry of Labor, in conjunction with NGOs and foreign donors, provided training and resources to workers and employers in identifying and resolving workplace hygiene and safety issues. The Ministry of Labor announced new standards of hygiene and safety governing all employers. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardizing their continued employment.

On January 21, David Antonio Rodriguez Ruiz suffocated when a large pile of dirt fell from a tractor in Managua. Ruiz was repairing the tractor at the Julio Barahona repair shop. Fifteen days after the accident, family members of

the deceased registered the incident with the Office of Health and Worker Security (OHSL). An investigation of the accident by OHSL never occurred because it lacked inspectors.

On March 4, a mechanical forklift crushed Jose Isidoro Rodriguez in El Rama while he was working for the construction company Corporation Meco Santa Fe. Although the company reported the accident, an OHSL investigation never occurred due to the limited number of inspectors assigned to the region of El Rama.

On March 11, William Vince Poveda received fatal injuries when he fell from an uneven staircase on a boat. Poveda was working for Estibas, a cargo company that transfers goods between San Rafael and Leon. The death was registered by the business; however, the OHSL did not initiate an investigation because it did not have sufficient inspectors.

On April 11, Daniel Bladimir Molina Pozo received fatal injuries from an explosion at the Triton Mine in Leon. The explosion occurred when a large borer made contact with an explosive that was left behind from a previous excavation. The death was registered by the company that owned Triton Mine. The OHSL Inspector for the Department of Leon investigated the incident and mandated corrective measures, including more strict regulation of explosive materials and verification of their disposal, a clearer definition of minimal safe distances for detonations, and mandatory participation for workers in safety training. OHSL had not verified compliance by year's end.

On June 3, Eddy Zeron Diaz Castillo received fatal injuries when he was struck by a vehicle on the highway in Managua while removing traffic cones for Corporation Meco Santa Fe, a construction company. The company registered the accident; however, no investigation by OHSL followed due to a lack of inspectors.

On August 12, Gabriel Urbina Robles was fatally injured when he fell from the top of a water tank of a truck while working for Rural Roads Program, a contractor for the city of Managua. The back wheel of the truck crushed Robles after his fall. The company reported this accident to OHSL. However, OHSL does not have an inspector general for the Jinotega-La Concordia area and did not investigate.

On August 23, Erick Benard Salinas suffered fatal injuries in Puerto Cabezas due to faulty diving equipment. While trapping lobsters for the business Copescharly, Salinas suffered decompression. No investigation was initiated because the region of Puerto Cabezas does not have an OHSL Inspector.

On August 28, Jorge Francisco Laguna Mendoza fell 25 feet to his death in Rio San Juan while cutting tree branches for Union Fenosa, the electricity distribution company, after he contacted high-tension power lines. Union Fonesa reported the accident to OHSL, but no investigation was initiated because OHSL has no inspectors in the area.

On December 2, Yesse Eliet Garcia, a worker at the FTZ garment factory Chao Sing International, suffered a miscarriage when she was not permitted to leave the factory. At about 8 a.m. Garcia, 5 months pregnant, experienced light vaginal bleeding and requested permission to seek medical treatment. She said that her line supervisor Huang Ji denied her permission to leave because she had no doctor's appointment. At 1 p.m. the bleeding became worse. Supervisor Jacqueline Aviles refused another request to seek medical treatment. Garcia's bleeding continued and at 4 p.m. she felt strong vaginal pain. She was finally taken to a hospital at 5 p.m. and treated for the miscarriage. An inspector from the Ministry of Labor investigated and verified Garcia's account of the incident. At the end of the year, Garcia was negotiating with the company for compensation.

The enactment of a 2001 law aimed at foreign companies prompted the filing of lawsuits on behalf of thousands of individuals claiming to be banana workers affected by exposure to the pesticide DBCP in the 1970s and 1980s when its use was legal. In December 2002, a judge issued the first decision on one suit, a \$489 million (7.599 billion cordobas) judgment on behalf of 583 plaintiffs. None of the companies named as defendants participated in the short evidentiary process that led to this judgment, and the court, citing the law, refused to hear their legal arguments or accept contrary evidence. The court also apparently did not consider a non-binding opinion circulated earlier that year by the acting Attorney General that cited apparent constitutional flaws in the law. In May, the claimants filed suit in a foreign court seeking enforcement of the decision. In October, the court judge dismissed the case. In December, one of the companies named as defendants filed suit in a foreign court against some of the plaintiffs, alleging abuse of power and malicious prosecution. Several hundred lawsuits claiming over \$10 billion (155.4 billion cordobas) in damages were pending in the country's courts.

f. Trafficking in Persons

The law specifically prohibits trafficking in persons and assigns a penalty of up to 10 years in prison. There was little documented evidence of a substantial trafficking problem within the country; however, there was some limited evidence that the country is a source for trafficking in women and children to other countries for purposes of sexual exploitation.

The Government instituted an awareness campaign with border police and immigration officials at entry points to Honduras to identify and question young women who are not accompanied by family members. In addition, the Government formed a 56-member Anti-Trafficking in Persons Unit within the police. The Women's Commissariats of the Police ran a nationwide trafficking awareness campaign to high schools, presenting high-risk youth with pamphlets and presentations warning them against the dangers of trafficking. According to the Ministry of Labor, strip clubs are inspected several times each year to ensure that there are no underage workers at these clubs.

On October 15, the National Council for Attention and Protection of Children (CONAPINA), a quasi-governmental institution composed of high-level state, non-state, and international actors and charged with national policy on children, approved a National Strategy Against Commercial Sexual Exploitation of Children and Adolescents, including trafficking of children. The highly detailed plan was integrated with CONAPINA's 10-year national policy on children and developed as a national consensus, with broad participation. It designates the Ministries of Family, Health, and Education as the principal governmental organizations to create and enforce policies against trafficking in persons and other forms of commercial sexual exploitation. The plan strongly encourages the participation of local government and civil society for its implementation. It sets out 12 clearly defined objectives and 9 strategies for implementation, including prevention, victim protection, victim attention, and prosecution of traffickers. The plan also has detailed measures for evaluating progress.

The law does not make prostitution illegal, though it bans its promotion. The Child and Family Law, which took effect in 1998, defines statutory rape as sexual relations with children 13 years old and younger; thus, there is no legal prohibition on prostitution by juveniles 14 and older (see Section 5).

On July 4, 12-year-old Ana Francis Pineda was kidnapped by Maritza Lopez Cortedano from her house in Matagalpa and taken to Costa Rica, apparently to elicit a high price as a virgin. The police worked through Interpol to alert the Costa Rican authorities, who located her in Santa Clara on August 5 in the custody of a Costa Rican. They returned her to her family on August 8. A doctor who examined the girl reported no evidence Pineda was sexually abused during her captivity. The Costa Rican authorities detained at least one of the girl's captors.

During the year, officials from the Government, NGOs, and other organizations characterized the trafficking problem as small – Casa Alianza knew of only two documented cases of trafficking in the last 3 years—but identified three potential problem areas: Teenage prostitution in the Atlantic Coast, teenage prostitution at massage parlors, and child pornography. There was no knowledge of any persons trafficked by organized rings, although there were reports of adult prostitutes voluntarily seeking better opportunities in other regional countries (see Section 5).

In August, the Consular Affairs Office of the Ministry of Foreign Relations reported it had repatriated two minors from Guatemala. The minors, reported missing by their families earlier in the year, had been found working at a nightclub in Guatemala and detained. The Consular Affairs office worked with the Guatemalan authorities to ensure that the victims were not penalized and provided for their return to their families.

At the end of November, Salvadoran border police arrested three Nicaraguans, Doris Maritza Rivas, Jose Antonio Marin, and Carlos Martinez Gutierrez for attempting to smuggle two Nicaraguan and two Salvadoran minors to Guatemala. A Salvadoran police spokesman indicated that they believed the minors were headed for Guatemala or Mexico for prostitution purposes without elaborating the basis for this suspicion.

On December 3, members of civil society and the Government formed a national Alliance Against Trafficking in Persons. The Alliance is designed to coordinate action against trafficking in persons by training and empowering national institutions to find and combat trafficking activity.